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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAN-DIETER SPALINK, BRIAN R. D. GULLETTE,
ANDREW HATCHELL, RANDALL C. NORTMAN,
KEVIN BABYAK, and MICHAEL BABYAK

Appeal 2008-005356
Application 09/606,683
Technology Center 2400

Decided: October 27, 2009

Before LEE E. BARRETT, LANCE LEONARD BARRY, and JOHN A.
JEFFERY, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Patent Examiner rejected claims 1-3, 7, 8, 11, 15, 19, 20, and 23-26. The Appellants appeal therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

INVENTION

The invention at issue on appeal classifies Web sites accessible via the Internet. More specifically, the invention receives a list of network resource locators and submits each locator to at least one Web coder, which determines a classification for that locator. (Spec. 16.)

ILLUSTRATIVE CLAIM

1. A method for classifying information available on a computer network, the method including:

receiving a list of network resource locators, said list being created by identifying network resources accessed by users of the network from use data which is related to resources accessed by a number of the users of the network;

for each network resource locator of the created list, sending the network resource locator to a graphical user interface (GUI) component of at least one Web-coding workstation connected to the network, and which is separate from the users of the network;

receiving a selection from at least one Web coder from the at least one Web-coding workstation, with each selection representing a classification for the resource identified by the sent network resource locator, said selection being generated in response to the Web coder using tools of said GUI component and in accordance with a predetermined classification system and

storing the classification in a separate database in relation to said resource locator and to said at least one Web-coding workstation.

PRIOR ART

Khan

US 6,546,393 B1

Apr. 8, 2003

REJECTION

Claims 1-3, 7, 8, 11, 15, 19, 20, and 23-26 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Khan.

CLAIMS 1, 3, 7, 8, 15, 19, 20, AND 23-26

When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately.

37 C.F.R. § 41.37(c)(1)(vii). When the patentability of dependent claims is not argued separately, the claims stand or fall with the claims from which they depend. *In re King*, 801 F.2d 1324, 1325 (Fed. Cir. 1986); *In re Sernaker*, 702 F.2d 989, 991 (Fed. Cir. 1983).

Here, the Appellants argue claims 1, 8, 23, and 24, which are subject to the same ground of rejection, as a group. (Amended Br. 12-15.) Rather than arguing the rejection of claims 3 or 7 separately, they rely on their arguments for the group. (*Id.* 16.) Therefore, we select claim 1 as the sole claim on which to decide the appeal of claims 1, 3, 7, 8, 23, and 24.

Furthermore, the Appellants argue claims 15, 19, 20, 25, and 26, which are subject to the same ground of rejection, as a group. (*Id.*)

Therefore, we select claim 15 as the sole claim on which to decide the appeal of claims 15, 19, 20, 25, and 26.

ISSUE

The Examiner finds that in Khan a "bookmark is received by a staff editor 'coding station' that determines whether the user categorization is correct and determines whether to accept the categorization or change the categorization of the selected bookmark (see col. 11 lines 62-col. 12 . . .)" (Ans. 11.) The Appellants argue that "the section referred to bridging cols. 11 and 12 merely discloses the individual users accessing resources on the net doing their own categorization, with the categorization being edited by an editor selected classification, but only after the user has submitted it with a proposed classification." (Amended Br. 14.) Therefore, the issue before us is whether the Appellants have shown error in the Examiner's finding that Khan teaches one Web-coding workstation connected to a network but separate from the users of the network as required by claim 1 and more than one such station as required by claim 15.

LAW

"[A]nticipation is a question of fact." *In re Hyatt*, 211 F.3d 1367, 1371-72 (Fed. Cir. 2000) (citing *Bischoff v. Wethered*, 76 U.S. (9 Wall.) 812, 814-15 (1869); *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997)). "[A]nticipation of a claim under § 102 can be found . . . if the prior art reference discloses every element of the claim." *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986) (citing *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed. Cir. 1984)).

FINDINGS OF FACT (FFs)

1. Khan "creat[es] . . . an exemplary website directory 300 of the present invention derived from bookmarks submitted from users' online bookmark accounts 302a, 302b, 302c. In the present invention, sites 304 added to the web directory 300 exist as bookmarks 306 in a user's bookmark set of the user's online bookmark account." (Col. 11, ll. 40-46.) "The user may choose manual or automatic categorization while adding part or all of their bookmark." (*Id.* ll. 59-61.)

2. The reference Khan adds the following explanation.

Under manual categorization, the user determines the category 310a, 310b, 310c under which to file a bookmark or a set of bookmarks. These bookmarks as well as the suggested categorization are reviewed by the directory's editorial staff for correctness of categorization. After this screening, the sites are made part of the directory under the user recommended category or a editor selected classification, and the user is notified.

(Col. 11, l. 63- col. 12, l. 4.)

3. Khan also includes the following disclosure.

In automatic categorization, the user may specify which part of the user's bookmark set is to be included in the directory. All unique links in this set that do not already exist in the directory are then considered for addition under categories determined by the staff. With automatic categorization, the user does not have to determine and submit the appropriate categorization of the submitted bookmarks."

(Col. 12, ll. 5-12.)

ANALYSIS

Khan derives a website directory from bookmarks submitted from users' online bookmark accounts. (FF 1.) The users submit their bookmarks to the directory's editorial staff for manual or automatic categorization. In the former case, the editorial staff decides the classification with suggestions from the users (FF 2); in the latter case, without suggestions therefrom (FF 3). It is uncontested that the editorial staff employs workstations to receive and classify the bookmarks. We agree with the Examiner's finding that because "the staff editors that categorize[] the bookmarks . . . are not part of the users, and . . . their role in the system and method is to categorize the bookmarks" (Answer 11, 12) each computer that a staff editor employs to "categorize the bookmarks taught by Khan [is] interpreted to be [a] Web-coding workstation" (*id.*) as required by claim 1. We find that the plurality of computers that the staff editors employ, moreover, constitute more than one such station as required by claim 15.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellants have shown no error in the Examiner's finding that Khan teaches one Web-coding workstation connected to a network but separate from the users of the network as required by claim 1 and more than one such station as required by claim 15.

CLAIM 2

The Examiner finds that "[t]he list of bookmarks accessed by each user is a 'list of network resource locators includes one or more Web sites

accessed by users of the network." (Answer 13.) The Appellants argue that "changes in classifications are made for specific resources for individual users but there is no overall ranking of public resources accessed by users of a network from what is termed use data or effectively 'collected network transaction data'." (Amended Br. 15.) Therefore, the issue before us is whether the Appellants have shown error in the Examiner's finding that Khan teaches a list of network resource locators that includes one or more Web sites accessed by users of the network.

LAW

"[T]he PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). "Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)).

ANALYSIS

The Appellants' argument that "there is no overall ranking of public resources accessed by users of a network from what is termed use data or effectively 'collected network transaction data'" (Amended Br. 15) appears to be based on limitations not in claim 2. Therefore, they cannot be relied on to show error in the rejection of that claim.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellants have shown no error in the Examiner's finding that Khan teaches a list of network resource locators that includes one or more Web sites accessed by users of the network.

CLAIM 11

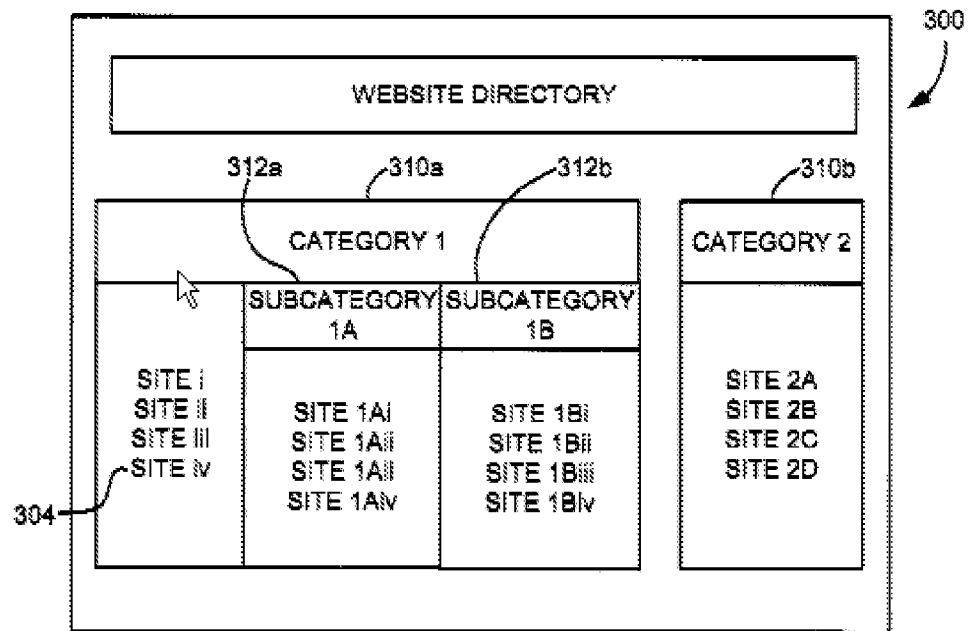
ISSUE

The Examiner finds that "Khan teaches . . . a hierarchical taxonomy of classifications and said selection represents one of said classifications (see col. 11 lines 45-col. 12 lines 27 and col. 13 lines 25-55)" (Ans. 6.) The Appellants argue that "the bookmarks set forth are identified by a classification. However, this has nothing to do with a hierarchical taxonomy of classifications." (Amended Br. 16.) Therefore, the issue before us is whether the Appellants have shown error in the Examiner's finding that Khan teaches a hierarchical taxonomy of classification.

FINDING OF FACT

4. Khan's "FIG. 4 is a schematic illustration of an exemplary embodiment of a website directory 300 of the present invention with sites 304 categorized in user created and defined categories 310a, 310b and subcategories 312a, 312b. In such an embodiment of the present invention, a sub-category may be created into which the site is categorized under one of the categories of the site directory." (Col. 12, l. 56-62.)

5. Figure 4, which shows the categories and subcategories, follows.



ANALYSIS

Khan's website directory categorized sites in categories and subcategories. (FFs 4-5.) We agree with the Examiner that the categories and subcategories constitute a hierarchical taxonomy of classification.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellants have shown no error in the Examiner's finding that Khan teaches a hierarchical taxonomy of classification.

DECISION

We affirm the rejection of claims 1-3, 7, 8, 11, 15, 19, 20, and 23-26.

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Application 09/606,683

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED

rwk

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